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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,819	12/13/2001	Blair Wyman	ROC920010233US1	5947

7590 05/17/2006

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EXAMINER

YODER III, CHRISS S

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/021,819	WYMAN, BLAIR	
	Examiner	Art Unit	
	Chriss S. Yoder, III	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 7, 9, 16-24, 27-29, 34-37 and 40-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1, 2, 7, 9, 16-24, 34-37 and 40-53 is/are allowed.
- 6) ☒ Claim(s) 27 and 29 is/are rejected.
- 7) ☒ Claim(s) 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 13, 2006 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 27 have been considered but are moot in view of the new ground(s) of rejection. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Kerns et al. (US Patent # 5,367,332).
2. In regard to claim 27, note Kerns discloses a method for operating an electronic camera apparatus, comprising the steps of capturing a continuous stream of optical

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images with an electronic optical sensing apparatus (column 3, lines 17-24), temporarily storing image data from said continuous stream of optical images in a circular buffer, said circular buffer being continuously overwritten by new image data from said continuous stream of optical images (column 3, lines 17-24), making a decision to save at least one recently captured image, said decision being made by a human user after the at least one recently captured image is captured by said electronic optical sensing apparatus, responsive to a user command issued by said human user, said command being responsive to making said decision to save at least one recently captured image, said command being issued before said at least one recently captured image is overwritten in said circular buffer, saving at least some image data from said buffer including said at least one recently captured image in a persistent form (column 3, lines 25-33), and automatically deleting each respective said optical image from said circular buffer without saving the respective said optical image in a persistent form if a said command issued by said human user for saving the respective said optical image is not received before the image is overwritten with subsequently captured image data (column 3, lines 17-24).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerns et al. (US Patent # 5,367,332) in view of Scheurich (US Patent # 6,665,453).

4. In regard to claim 29, note Kerns discloses a method for operating an electronic camera apparatus as claimed in claim 27 above. Therefore, it can be seen that Kerns fails to disclose that every Nth video frame captured by said optical sensing apparatus is stored in said buffer during a respective temporary period, N being a user-selectable parameter, wherein at least one user-selectable value of N is greater than 1. Scheurich discloses a controller that stores every Nth video frame captured by said optical sensing apparatus in a buffer during a period (column 5, lines 25-30 and figure 7:704 –706, every fifth frame is high resolution, and all of the high resolution images are stored; combining this with the user-selectability in the Kerns device to select the size of images and how often the images are stored, one would reach the claimed invention). Scheurich teaches that storing every Nth video frame can reduce the cost of the device and the amount of required storage space (column 4, lines 21-30). Therefore, it would have been obvious to one of ordinary skill in the art to modify the primary device to store every Nth video frame in order to reduce the cost of the device and the amount of required storage space, as suggested by Scheurich.

Allowable Subject Matter

Claims 1, 2, 7, 9, 16-24, 28, 34-37 and 40-53 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

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5. As for claim 1, the prior art does not teach or fairly suggest the use of a camera that simultaneously stores motion in a video storage medium and to temporarily store video frames in a buffer memory at a higher resolution until a user command is received to save a user-selectable portion of the buffer in a persistent form by displaying the contents of the buffer on the display of the camera, and receiving a user selection of image data to be saved, wherein if the user command is not received before a pre-determined event, the contents of the buffer are automatically deleted, without saving, by the controller.

6. As for claim 16, the prior art does not teach or fairly suggest a method for operating a camera that simultaneously stores motion in a video storage medium and to temporarily store video frames in a buffer memory at a higher resolution until a user command is received to save a user-selectable portion of the buffer in a persistent form, wherein the image data in the buffer is continuously overwritten by new image data if the user command is not received.

7. Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. As for claim 34, the prior art does not teach or fairly suggest the use of a program product for controlling a camera that simultaneously stores motion in a video storage medium and to temporarily store video frames in a buffer memory at a higher resolution until a user command is received to save a user-selectable portion of the buffer in a persistent form by displaying the contents of the buffer on the display of the camera,

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and receiving a user selection of image data to be saved, wherein if the user command is not received before a pre-determined event, the contents of the buffer are automatically deleted, without saving, by the controller.

9. As for claim 45, the prior art does not teach or fairly suggest the use of a camera that simultaneously stores motion in a video storage medium and to temporarily store video frames in a buffer memory at a higher resolution until a user command is received to save a user-selectable portion of the buffer in a persistent form by displaying the contents of the buffer on the display of the camera, and receiving a user selection of image data to be saved, wherein if the user command is not received before a pre-determined event, the contents of the buffer are automatically deleted, without saving, by the controller.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chriss S. Yoder, III whose telephone number is (571) 272-7323. The examiner can normally be reached on M-F: 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CSY

May 15, 2006


TUAN HO
PRIMARY EXAMINER